



Health Care Services Policy Committee

Meeting Packet

**Tuesday, January 12, 2010
10:15 AM -12:00 PM
306 HOB**

**Larry Cretul
Speaker**

**Paige Kreegel
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health Care Services Policy Committee

Start Date and Time: Tuesday, January 12, 2010 10:15 am

End Date and Time: Tuesday, January 12, 2010 12:00 pm

Location: 306 HOB

Duration: 1.75 hrs

Consideration of the following bill(s):

HB 25 Temporary and Concurrent Custody of a Child by Glorioso

HB 315 Adoption by Horner

Workshop on the following:

Background screening for employment.

NOTICE FINALIZED on 01/05/2010 15:45 by Villar.Melissa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 25 Temporary and Concurrent Custody of a Child
SPONSOR(S): Glorioso
TIED BILLS: None **IDEN./SIM. BILLS:** SB 334

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Civil Justice & Courts Policy Committee	12 Y, 0 N	DeZego	De La Paz
2)	Health Care Services Policy Committee		Schoonover <i>AS</i>	Schoolfield <i>[Signature]</i>
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

This bill amends ch. 751, F.S., to authorize a court to order concurrent custody of a minor child to an extended family member. An order of concurrent custody does not affect a parent or parents' ability to obtain physical custody of the child at any time.

In order to bring proceedings for concurrent custody under this bill, a person must:

- Be an extended family member who has signed, notarized consent of the child's legal parents or an extended family member who is caring full time for the child in the role of a substitute parent and with whom the child is presently living;
- Currently have physical custody of the child;
- Have had physical custody of the child for at least 10 days within any 30-day period in the last 12 months; and
- Not have signed documentation from a parent which allows the petitioner to obtain necessary care for the child that an order for concurrent custody would provide.

A judge may award concurrent custody if it is in the best interest of the child, unless the parents object. If a parent objects in writing, then the court may not grant the petition. The petitioner or either or both parents may move to terminate an order granting concurrent custody at any time, and an order must be terminated if either parent objects to the order.

The court may also provide an order for child support to the extended family member under this bill if the parent receives notice and there is evidence of the parent's ability to pay. In addition, the court may direct all or part of an existing child support obligation to be paid to the extended family member who is granted concurrent custody of the child.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Kinship Care

The Child Welfare League of America (CWLA)¹ defines kinship care as "the full time care, nurturing and protection of children by relatives, members of their tribes or clans, godparents, stepparents, or any adult who has a kinship bond with a child."² The CWLA notes that "one of the most recent stunning changes in the child welfare system has been the major growth in the number of children in state custody who are living with their relatives."³

In the United States, more than six million children -- approximately 1 in 12 -- are living in households headed by grandparents or other relatives.⁴ In many of these homes, grandparents and other relatives are taking on the primary responsibility for the child's needs, without either of the child's parents present in the home.⁵ The increase in recent years in the numbers of children living with relatives can be attributed to many factors, including:

- Increased reporting of abuse and neglect;
- Change in drug usage and addiction related to the spread of crack cocaine and other drugs;
- Increased levels of poverty;
- More children affected by HIV/AIDS;
- More parents struggling with physical and mental health problems;
- Family violence and parental incarceration; and
- Decline in the availability of traditional foster homes.⁶

¹ The Child Welfare League of America, founded in 1920, "provides direct support to agencies that serve children and families, improving the quality of the services they provide to more than nine million children every year." Child Welfare League of America, About CWLA: Fact Sheet, <http://www.cwla.org/whowhat/more.htm> (last visited October 6, 2009).

² Child Welfare League of America, Kinship Care: Fact Sheet, <http://www.cwla.org/programs/kinship/factsheet.htm>. Last accessed October 6, 2009.

³ *Id.*

⁴ American Ass'n of Retired Persons, State Fact Sheets for Grandparents and Relatives Raising Children (Oct. 2007), http://www.grandfactsheets.org/state_fact_sheets.cfm. Last accessed October 6, 2009.

⁵ *Id.*

⁶ Child Welfare League of America, *supra* note 2.

In Florida, approximately 258,952 children live in grandparent-headed households, which accounts for 7.1 percent of all the children in the state.⁷ There are another 86,152 children living in households headed by other relatives, accounting for 2.4 percent of all the children in the state.⁸ Of the children living in households headed by grandparents or other relatives, 151,492 are living there without either parent present.⁹ Although many children living with relatives are doing so pursuant to a court order after being adjudicated dependent pursuant to ch. 39, F.S.,¹⁰ far more are living with relatives in informal arrangements, with no court involvement, often because their parents are incarcerated or addicted to drugs.¹¹

The University of South Florida's School of Social Work established the Florida Kinship Center in response to the growing needs of children living in kinship care homes.¹² The Center provides statewide and local programs to kinship caregivers throughout Florida. The programs include¹³:

- The Warmline, which provides emotional support, information, and referral for relative caregivers throughout Florida;
- The Legal Hotline, which provides education, information and referral to volunteer lawyers and legal aid for caregivers facing legal challenges;
- The Kinship Partners Program, which provides support groups and training to 12 counties in Florida;
- The Kin As Teachers Program, which provides support to relative caregivers raising children from ages birth to kindergarten; and
- The Kinship Care Connection, which provides school-based support such as mentors, one-on-one academic services, and intensive therapeutic interventions.

Section 39.5085, F.S., establishes the Relative Caregiver Program through which relatives who care for dependent children are eligible for financial assistance within available funding limits.¹⁴ Chapter 39, F.S., however, does not otherwise explicitly require that relatives¹⁵ be involved in or informed of child protective investigations or dependency proceedings, unless they are legal custodians of the subject child or children.¹⁶ However, s. 39.502(1), F.S. and s. 39.502(19), F.S. were amended in 2009 to provide notification of dependency proceedings and hearings when requested in writing by relatives. Florida law provides several means by which a relative may be granted some measure of control over a child.

⁷ American Ass'n of Retired Persons, GrandFacts, Florida (Nov. 2007), <http://www.grandfactsheets.org/doc/Florida%2007%20New%20Template.pdf>. Last accessed October 6, 2009.

⁸ *Id.*

⁹ *Id.*

¹⁰ In December 2008 in Florida, there were 8,406 children adjudicated dependent and in out-of-home care, who were placed with relatives. Julie Mayo, DCF Staff Analysis and Economic Impact House Bill Number 381 (January 21, 2009).

¹¹ See James P. Gleeson, Kinship Care Research and Literature: Lessons Learned and Directions for Future Research, KINSHIP REPORTER VOL. 1, NO. 2 (Summer 2007), available at <http://www.cwla.org/programs/kinship/kinshipsummer2007.pdf>. Last accessed October, 2009.

¹² See <http://www.flkin.org/index.asp>. Last accessed October 21, 2009.

¹³ *Kinnectivity*, Summer 2009 available at <http://www.flkin.org/News14241770.asp>. Last accessed October 21, 2009.

¹⁴ The average Relative Caregiver payment is \$263 per month per child; the average foster care board rate is \$461 per month per child. DCF, DCF Quick Facts (February 6, 2009).

¹⁵ Pursuant to s. 39.01(64), F.S., "relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

¹⁶ Section 39.502(17), F.S., requires reasonable notice of dependency proceedings to all "participants." Section 39.01(50), F.S., defines a "participant" for purposes of a shelter, dependency, or termination of parental rights proceeding as "any person who is not a party but who should receive notice of hearings involving the child, including the actual custodian of the child, the foster parents or the legal custodian of the child, identified prospective parents, and any other person whose participation may be in the best interest of the child." A relative will meet this definition only if he or she is the current or potential placement for the child.

Temporary Custody of Minor Children by Extended Family

Chapter 751, F.S., establishes a process by which a child's extended family member¹⁷ may petition a court for temporary custody of the child. An award of temporary custody allows an extended family member with physical custody of a child to consent to:¹⁸

- Reasonable medical and dental treatment (including nonemergency surgery and psychiatric care);
- Obtain medical, educational and other records;
- Make decisions about a child's education; and
- Do other things necessary for the child's care.

Temporary custody of a child may be awarded to a relative with or without the consent of the child's parents.¹⁹ If the child's parents do not object, the court will award temporary custody to the petitioning relative when it is in the best interest of the child to do so.²⁰ If the parents do object, the court may enter a temporary custody order only after finding by clear and convincing evidence that the parents are unfit and have abused, neglected, or abandoned the child.²¹ At any time, a parent may petition the court to terminate a temporary custody order, and the court will terminate the order upon a finding that the parent is fit or upon the consent of the parties.²²

Consent to Medical Care of a Minor

Section 743.0645, F.S., authorizes the following individuals to consent to the medical care or treatment of a minor if, after a reasonable attempt, a person who has the power to consent (e.g., a parent) cannot be contacted by the treatment provider:

- A person who possesses a power of attorney to provide medical consent for the minor;²³
- A stepparent;
- A grandparent of the minor;
- An adult brother or sister of the minor; or
- An adult aunt or uncle of the minor.

"Medical care and treatment" includes ordinary and necessary medical and dental examination and treatment, including blood testing, preventive care including ordinary immunizations, tuberculin testing, and well-child care, but does not include surgery, general anesthesia, provision of psychotropic medications, or other extraordinary procedures for which a separate court order, power of attorney, or informed consent as provided by law is required.

Guardianship of a Minor

Section 744.3021, F.S., allows a parent, brother, sister, next of kin or other interested person to petition a court for the appointment of a guardian for a minor, without the need for adjudication of incapacity. Once appointed, the guardian has the authority of a plenary guardian.²⁴

¹⁷ An extended family member is defined in s. 751.011, F.S., as a relative within the third degree by blood or marriage to the parent, or the stepparent of a child if the stepparent is currently married to the parent of the child.

¹⁸ Section 751.01(3), F.S.

¹⁹ Section 751.05, F.S.

²⁰ Section 751.05(2), F.S.

²¹ Section 751.05(3), F.S.

²² Section 751.05(6), F.S.

²³ A power of attorney executed after July 1, 2001, to provide medical consent for a minor includes the power to consent to medically necessary surgical and general anesthesia services for the minor unless such services are excluded by the individual executing the power of attorney.

²⁴ Pursuant to s. 744.102(9)(b), F.S., a plenary guardian is "a person who has been appointed by the court to exercise all delegable legal rights and powers of the ward after the court has found that the ward lacks the capacity to perform all of the tasks necessary to care for his or her person or property."

A child who has been adjudicated dependent pursuant to ch. 39, F.S., may be placed by court order in a permanent guardianship²⁵ or in a permanent placement with a relative.²⁶ In both circumstances the court is required to provide the caregiver with a separate order establishing the caregiver's authority to care for the child.

Power of Attorney

Section 709.08(1), F.S., defines a durable power of attorney to be "a written power of attorney by which a principal designates another as the principal's attorney in fact." Pursuant to a durable power of attorney, the attorney in fact "has full authority to perform, without prior court approval, every act specifically enumerated in the durable power of attorney."²⁷ If authority is specifically granted, the attorney in fact may make health care decisions on behalf of the principal.²⁸ A durable power of attorney survives the principal's incapacity.

There is no specific provision in Florida law for a power of attorney that allows someone other than a parent or legal custodian to care for a minor child, although nothing in the law precludes the execution of such a document. Some states have passed legislation that specifically addresses the use of a power of attorney to allow a parent to delegate temporary caregiving authority to a relative.²⁹

Effect of Bill

This bill amends ch. 751, F.S., to authorize a court to order concurrent custody of a minor child to an extended family member.³⁰ This bill defines concurrent custody to mean that an eligible individual is awarded custodial rights to care for a child concurrently with the child's parent or parents. This bill provides that in order to bring proceedings for concurrent custody, a person must:

- Be an extended family member who has signed, notarized consent of the child's legal parents or be an extended family member who is caring full time for the child in the role of a substitute parent and with whom the child is presently living;
- Currently have physical custody of the child;
- Have had physical custody of the child for at least 10 days within any 30-day period in the last 12 months; and
- Not have signed documentation from a parent which allows the petitioner to obtain necessary care for the child that an order for concurrent custody would provide.

Petition for Concurrent Custody

A petition for concurrent custody must provide in part the following:

- The names and addresses of persons with whom the child has lived in the past five years;
- The time periods during the last 12 months when the child resided with the petitioner;
- The type of document, if any, provided by the parent or parents to the petitioner to act on behalf of the child;
- The services or actions that the petitioner is not able to attain or perform without an order of custody; and
- Whether each parent has consented in writing to the entry of an order of concurrent custody.

²⁵ Section 39.6221, F.S.

²⁶ Section 39.6231, F.S.

²⁷ Section 709.08(7)(a), F.S.

²⁸ Section 709.08(7)(c), F.S.

²⁹ See, e.g., Ariz. Rev. Stat. s. 14-5104 (2009); Cal. Fam. Code s. 6550 (2009); Tenn. Code Ann. s. 34-6-301, et. seq. (2008).

³⁰ An extended family member is defined as a person who is a relative within the third degree by blood or marriage or the stepparent of the child if still married to the child's parent. Section 751.011(2), F.S.

Notice and an opportunity to be heard must be given to the parents by personal or constructive service of process.

Order for Concurrent Custody

Under this bill, a judge may award concurrent custody if it is in the best interest of the child, unless the parents object. If a parent objects in writing, then the court may not grant the petition. If a parent objects, then the petitioner may change their petition to one for temporary custody and set the matter for a separate hearing. Separate notice must be given for the new hearing in this case. If the petition is not converted into a petition for temporary custody, then the petition for concurrent custody must be dismissed without prejudice.

An order of concurrent custody does not affect a parent or parents' ability to obtain physical custody of the child at any time. The petitioner or either or both parents may move to terminate the order granting concurrent custody. The order must be terminated if either parent objects to the order.

Child Support

This bill also provides that the court may provide an order for child support if the parent receives notice and there is evidence of the parent's ability to pay. In addition, the court may direct all or part of an existing child support obligation to be paid to the extended family member who is granted concurrent custody of the child.

The petitioner or either or both parents may move to modify the child support provision. The support order may be modified if the parties consent and the modification is in the best interests of the child.

B. SECTION DIRECTORY:

Section 1 amends s. 751.01, F.S., relating to the temporary custody of a minor child by extended family.

Section 2 amends s. 751.011, F.S., relating to definitions.

Section 3 amends s. 751.02, F.S., relating to determination of temporary custody proceedings.

Section 4 amends s. 751.03, F.S., relating to a petition for temporary or concurrent custody.

Section 5 amends s. 751.04, F.S., relating to notice and opportunity to be heard for temporary or concurrent custody.

Section 6 amends s. 751.05, F.S., relating to an order granting temporary or concurrent custody.

Section 7 amends s. 49.011, F.S., relating to service of process for temporary custody of a minor.

Section 8 provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

This bill appears to have a minimal indeterminate negative fiscal impact. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

To the extent that individuals under this bill will be able to petition for concurrent custody, this bill may increase the judicial workload according to the Office of the State Courts Administrator.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require counties or cities to: spend funds or take action requiring the expenditure of funds; reduce the authority of counties or cities to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or cities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill may require the creation of a petition and final order for concurrent custody. According to the Office of the State Courts Administrator, the creation of these forms cannot be completed by the effective date of this bill.

The bill also might require clarification as to the court's power of modification of the child support order. It is unclear whether the modification is intended to apply to the amount of child support or the grantee of the child support or both.

The bill may require a reference to the child support guidelines of s. 61.30, F.S. to steer the court in modifying an order granting child support. If the bill will allow the court to modify an order to award support to concurrent parents, then the court should be restricted to the guidelines of s. 61.30, F.S.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to temporary and concurrent custody of a
 3 child; revising ch. 751, F.S., relating to petitions and
 4 court orders awarding the temporary custody of a child to
 5 an extended family member, to also provide for concurrent
 6 custody with the parents of the child; amending s. 751.01,
 7 F.S.; conforming provisions to changes made by the act;
 8 amending s. 751.011, F.S.; revising definitions; defining
 9 the term "concurrent custody"; amending s. 751.02, F.S.;
 10 providing requirements for concurrent custody; amending s.
 11 751.03, F.S.; revising the petition for concurrent custody
 12 to require additional information; amending s. 751.04,
 13 F.S.; conforming provisions to changes made by the act;
 14 amending s. 751.05, F.S.; providing that if a parent
 15 objects to a petition for concurrent custody, the court
 16 may not grant the petition and must give the petitioner
 17 the option of converting the petition to one for temporary
 18 custody; providing for dismissal of the petition;
 19 providing that an order granting concurrent custody does
 20 not affect the ability of the parents to obtain the
 21 physical custody of the child at any time; providing for
 22 the court to terminate an order for concurrent custody if
 23 a parent withdraws his or her consent to the order;
 24 amending s. 49.011, F.S.; conforming provisions to changes
 25 made by the act; providing an effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:
 28

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29 Section 1. Section 751.01, Florida Statutes, is amended to
 30 read:

31 751.01 Purpose of act.--The purposes of this chapter ~~ss.~~
 32 ~~751.01-751.05~~ are to:

33 (1) Recognize that many minor children in this state live
 34 with and are well cared for by members of their extended
 35 families. The parents of these children have often provided for
 36 their care by placing them temporarily with another family
 37 member who is better able to care for them. Because of the care
 38 being provided the children by their extended families, they are
 39 not dependent children.

40 (2) Provide for the welfare of a minor child who is living
 41 with extended family members. At present, such family members
 42 are unable to give complete care to the child in their custody
 43 because they lack a legal document that explains and defines
 44 their relationship to the child, and they are unable effectively
 45 to consent to the care of the child by third parties.

46 (3) Provide temporary or concurrent custody of a minor
 47 child to a family member having physical custody of the minor
 48 child to enable the custodian to:

49 (a) Consent to all necessary and reasonable medical and
 50 dental care for the child, including nonemergency surgery and
 51 psychiatric care.†

52 (b) Secure copies of the child's records, held by third
 53 parties, that are necessary for ~~to~~ the care of the child,
 54 including, but not limited to:

- 55 1. Medical, dental, and psychiatric records.†
- 56 2. Birth certificates and other records.† ~~and~~

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57 3. Educational records.~~†~~

58 (c) Enroll the child in school and grant or withhold
59 consent for a child to be tested or placed in special school
60 programs, including exceptional education.~~†~~ ~~and~~

61 (d) Do all other things necessary for the care of the
62 child.

63 Section 2. Section 751.011, Florida Statutes, is amended
64 to read:

65 751.011 Definitions.--As used in this chapter ~~ss. 751.01-~~
66 ~~751.05~~, the term:

67 (1) "Concurrent custody" means that an eligible individual
68 is awarded custodial rights to care for a child concurrently
69 with the child's parent or parents.

70 (2) "Extended family member" means a ~~is any~~ person who is:

71 (a) ~~(1)~~ A relative of a minor child within the third degree
72 by blood or marriage to the parent; or

73 (b) ~~(2)~~ The stepparent of a minor child if the stepparent
74 is currently married to the parent of the child and is not a
75 party in a pending dissolution, separate maintenance, domestic
76 violence, or other civil or criminal proceeding in any court of
77 competent jurisdiction involving one or both of the child's
78 parents as an adverse party.

79 Section 3. Section 751.02, Florida Statutes, is amended to
80 read:

81 751.02 ~~Determination of~~ Temporary or concurrent custody
82 proceedings; jurisdiction.--

83 (1) The following individuals may bring proceedings in the
84 circuit court to determine the temporary or concurrent custody

85 of a minor child:

86 (a)~~(1)~~ Any extended family member who has the signed,
87 notarized consent of the child's legal parents; or

88 (b)~~(2)~~ Any extended family member who is caring full time
89 for the child in the role of a substitute parent and with whom
90 the child is presently living.

91 (2) In addition to the requirements of subsection (1), an
92 individual seeking concurrent custody must:

93 (a) Currently have physical custody of the child and have
94 had physical custody of the child for at least 10 days in any
95 30-day period within the last 12 months; and

96 (b) Not have signed, written documentation from a parent
97 which is sufficient to enable the custodian to do all of the
98 things necessary to care for the child which are available to
99 custodians who have an order issued under s. 751.05.

100 Section 4. Section 751.03, Florida Statutes, is amended to
101 read:

102 751.03 Petition for temporary or concurrent custody;
103 contents.--Each petition for temporary or concurrent custody of
104 a minor child must be verified by the petitioner, who must be an
105 extended family member, and must contain statements, to the best
106 of the petitioner's knowledge and belief, providing ~~showing~~:

107 (1) The name, date of birth, and current address of the
108 child.†

109 (2) The names and current addresses of the child's
110 parents.†

111 (3) The names and current addresses of the persons with
112 whom the child has lived during the past 5 years.†

113 (4) The places where the child has lived during the past 5
 114 years.~~†~~

115 (5) Information concerning any custody proceeding in this
 116 or any other state with respect to the child.~~†~~

117 (6) The residence and post office address of the
 118 petitioner.~~†~~

119 (7) The petitioner's relationship to the child.~~†~~

120 (8) If concurrent custody is being requested:

121 (a) The time periods during the last 12 months that the
 122 child resided with the petitioner;

123 (b) The type of document, if any, provided by the parent
 124 or parents to enable the petitioner to act on behalf of the
 125 child;

126 (c) The services or actions that the petitioner is unable
 127 to obtain or undertake without an order of custody; and

128 (d) Whether each parent has consented in writing to the
 129 entry of an order of concurrent custody.

130

131 A copy of the written consent and any documents provided by the
 132 parent to assist the petitioner in obtaining services must be
 133 attached to the petition.

134 ~~(9)-(8)~~ If temporary custody is being requested, the
 135 consent of the child's parents, or the specific acts or
 136 omissions of the parents which demonstrate that the parents have
 137 abused, abandoned, or neglected the child as defined in chapter
 138 39.~~†~~

139 ~~(10)-(9)~~ Any temporary or permanent orders for child
 140 support, the court entering the order, and the case number.~~†~~

141 ~~(11)~~(10) Any temporary or permanent order for protection
 142 entered on behalf of or against either parent, the petitioner,
 143 or the child; the court entering the order; and the case
 144 number.~~†~~

145 ~~(12)~~(11) That it is in the best interest of the child for
 146 the petitioner to have custody of the child.~~†~~~~and~~

147 ~~(13)~~(12) A statement of the period of time the petitioner
 148 is requesting temporary custody, including a statement of the
 149 reasons supporting that request.

150

151 ~~Only an extended family member may file a petition under this~~
 152 ~~chapter.~~

153 Section 5. Section 751.04, Florida Statutes, is amended to
 154 read:

155 751.04 Notice and opportunity to be heard.--Before a
 156 decree is made under this chapter ~~ss. 751.01-751.05~~, reasonable
 157 notice and opportunity to be heard must be given to the parents
 158 of the minor child by service of process, either personal or
 159 constructive.

160 Section 6. Section 751.05, Florida Statutes, is amended to
 161 read:

162 751.05 Order granting temporary or concurrent custody.--

163 (1) At the hearing on the petition for temporary or
 164 concurrent custody, the court must hear the evidence concerning
 165 a minor child's need for care by the petitioner, all other
 166 matters required to be set forth in the petition, and the
 167 objections or other testimony of the child's parents, if
 168 present.

169 (2) Unless the minor child's parents object, the court
 170 shall award ~~the~~ temporary or concurrent custody of the child to
 171 the petitioner if ~~when~~ it is in the best interest of the child
 172 ~~to do so.~~

173 (3) If one of the minor child's parents objects to:

174 (a) The petition for concurrent custody, in writing, the
 175 court may not grant the petition even if the other parent
 176 consents, in writing, to the entry of the order. The court shall
 177 give the petitioner the option of converting the petition to a
 178 petition for temporary custody. If the petitioner so elects, the
 179 court shall set the matter for further hearing, provide notice
 180 to the parent or parents, and proceed pursuant to paragraph (b).
 181 If the petition is not converted into a petition for temporary
 182 custody, it shall be dismissed without prejudice.

183 (b) The petition for temporary custody ~~granting of~~
 184 ~~temporary custody to the petitioner,~~ the court shall grant the
 185 petition only upon a finding, by clear and convincing evidence,
 186 that the child's parent or parents are unfit to provide for the
 187 care and control of the child. In determining that a parent is
 188 unfit, the court must find that the parent has abused,
 189 abandoned, or neglected the child, as defined in chapter 39.

190 (4) The order granting:

191 (a) Concurrent custody of the minor child may not
 192 eliminate or diminish the custodial rights of the child's parent
 193 or parents. The order must expressly state that the grant of
 194 custody does not affect the ability of the child's parent or
 195 parents to obtain physical custody of the child at any time.

196 (b) Temporary custody of the minor child to the petitioner

197 may also grant visitation rights to the child's parent or
 198 parents, if it is in the best interest of the child ~~to do so~~.

199 (5)~~(a)~~ The order granting temporary or concurrent custody
 200 of the minor child to the petitioner;

201 (a) May not include an order for the support of the child
 202 unless the parent has received personal or substituted service
 203 of process, the petition requests an order for the support of
 204 the child, and there is evidence of the parent's ability to pay
 205 the support ordered.

206 (b) ~~The order granting temporary custody~~ May redirect all
 207 or part of an existing child support obligation to be paid to
 208 the extended family member who is granted temporary or
 209 concurrent custody of the child. If the court redirects an
 210 existing child support obligation, the order granting temporary
 211 or concurrent custody must include, if possible, the
 212 determination of arrearages owed to the obligee and the person
 213 awarded temporary or concurrent custody and must order payment
 214 of the arrearages. The clerk of the circuit court in which the
 215 ~~temporary custody~~ order is entered shall transmit a certified
 216 copy ~~thereof~~ to the court originally entering the child support
 217 order. The temporary or concurrent custody order shall be
 218 recorded and filed in the original action in which child support
 219 was determined and become a part thereof. A copy of the
 220 temporary or concurrent custody order shall also be filed with
 221 the depository that serves as the official recordkeeper for
 222 support payments due under the support order. The depository
 223 must ~~shall~~ maintain separate accounts and separate account
 224 numbers for individual obligees.

225 (6) At any time, either or both of the child's parents may
 226 petition the court to modify or terminate the order granting
 227 temporary custody. The court shall terminate the order upon a
 228 finding that the parent is a fit parent, or by consent of the
 229 parties. The court may modify an order granting temporary
 230 custody if the parties consent or if modification is in the best
 231 interest of the child.

232 (7) At any time, the petitioner or either or both of the
 233 child's parents may move the court to modify the child support
 234 provision or terminate the order granting concurrent custody.
 235 The court shall terminate the order upon a finding that either
 236 or both of the child's parents object to the order. The fact
 237 that an order for concurrent custody has been terminated does
 238 not preclude any person who is otherwise eligible to petition
 239 for temporary custody from filing such petition. The court may
 240 modify an order granting child support if the parties consent
 241 and if modification is in the best interest of the child.

242 Section 7. Subsection (14) of section 49.011, Florida
 243 Statutes, is amended to read:

244 49.011 Service of process by publication; cases in which
 245 allowed.--Service of process by publication may be made in any
 246 court on any party identified in s. 49.021 in any action or
 247 proceeding:

248 (14) For temporary custody of a minor child, under chapter
 249 751 ss. 751.01-751.05.

250 Section 8. This act shall take effect July 1, 2010.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 25 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Health Care Services Policy
2 Committee
3 Representative(s) Glorioso offered the following:

4

5 **Amendment**

6 Remove line 67 and insert:

7 (1) "Concurrent custody" means that an eligible extended family
8 member

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 25 (2010)

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Health Care Services Policy
2 Committee

3 Representative(s) Glorioso offered the following:
4

5 **Amendment (with title amendment)**

6 Remove lines 232-241 and insert:

7 (7) At any time, the petitioner or either or both of the
8 child's parents may move the court to terminate the order
9 granting concurrent custody. The court shall terminate the
10 order upon a finding that either or both of the child's
11 parents object to the order. The fact that an order for
12 concurrent custody has been terminated does not preclude
13 any person who is otherwise eligible to petition for
14 temporary custody from filing such petition.

15
16 (8) At any time, the petitioner or either or both of the
17 child's parents may move the court to modify the existing
18 child support order pursuant to ch. 61, F.S. The court may
19 modify an existing order granting child support if the

Amendment No. 2

20 parties consent and if modification is in the best interest
21 of the child. Any order modifying child support in a
22 concurrent custody proceeding shall be copied and placed in
23 the related family court files.

24

25

26

27

T I T L E A M E N D M E N T

28

Remove lines 21-23 and insert:

29

physical custody of the child at any time; providing for
30 the court to terminate an order for concurrent custody if
31 either or both parents object to the order; providing for
32 filing for temporary custody if an order for concurrent
33 custody has been terminated; providing for the court to
34 modify an existing child support order;

HB 315

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 315 Adoption

SPONSOR(S): Horner and others

TIED BILLS: IDEN./SIM. BILLS: SB 530

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Services Policy Committee		Schoonover <i>CS</i>	Schoolfield <i>RS</i>
2)	Health & Family Services Policy Council			
3)				
4)				
5)				

SUMMARY ANALYSIS

This bill creates a section of law in ch. 63, F.S., to prohibit an adoption agency or entity, whether public or private, from making adoption suitability determinations based on the lawful possession, storage, or use of a firearm or ammunition. The bill also prohibits an adoption agency or entity from requiring the adoptive parent or prospective adoptive parent to disclose such firearm and ammunition information. Further the bill restricts the adoption agency or entity from restricting the lawful possession, storage, or use of a firearm or ammunition as a condition for a person to adopt.

The bill does not appear to have a fiscal impact of state or local governments.

The bill becomes effective upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Adoption

Ch. 63, F.S., known as the Florida Adoption Act, applies to all adoptions, both public and private, involving the following entities: Department of Children and Families (DCF); child-caring agencies registered under s. 409.176; an intermediary such as an attorney; or a child-placing agency licensed in another state which is qualified by DCF to place children in Florida.

It is the established intent of the Legislature to provide stable and permanent homes for adoptive children in a prompt manner, to prevent the disruption of adoptive placement, and to hold parents accountable for meeting the needs of children.¹ It is also the intent of the Legislature that in every adoption, the child's best interest should govern the court's determination in placement, with the court making specific findings as to those best interests.² The Legislature also intends to protect and promote the well-being of the persons being adopted.³ Safeguards are established to ensure that the minor is legally free for adoption, that the required persons consent to the adoption, or that the parent-child relationship is terminated by judgment of the court.⁴

The Department of Children and Families has promulgated several administrative rules that aide in the recruitment, screening, application, and evaluation process of adoptive parents.⁵ The rules reference an application to adopt found on DCF form CF-FSP 5071.⁶ The form includes necessary identifying information and does not include any information regarding the ownership or possession of firearms or ammunition. In evaluating the applicants, the rules do not address evaluating prospective parents' ownership of firearms or ammunition.⁷ However, some of the adoption agencies in Florida added

¹ s. 63.022(1)(a), F. S.

² s. 63.022(2), F.S.

³ s. 63.022(3), F.S.

⁴ s. 63.022(4), F.S.

⁵ 65C-16.005, F.A.C.

⁶ 65C-16.004, F.A.C.

⁷ 65C-16.005, F.A.C.

questions regarding possession and storage of firearms and ammunition to the home study process while evaluating prospective adoptive parents.⁸

A preliminary home study is required prior to placing the minor into an intended home. It must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive minor. The preliminary home study must be performed by a licensed child-placing agency, a registered child-caring agency, or a licensed professional. Unless good cause is shown, a home study is not required for adult adoptions or when the petitioner for adoption is a stepparent or a relative. A favorable home study is valid for one year after the date of its completion.⁹

The preliminary home study must include, at a minimum the following:¹⁰

- An interview with the intended adoptive parents
- Records checks of DCF's central abuse hotline
- Criminal history check through FDLE and FBI
- An assessment of the physical environment of the home
- A determination of the financial security
- Proof of adoptive parent counseling and education
- Proof that information on adoption and the adoption process has been provided
- Proof that information on support services available has been provided
- Copy of each signed acknowledgement of receipt of adoption entity disclosure forms

Following a favorable preliminary home study, a minor may be placed in the home pending entry of the judgment of adoption by the court. If the home study is unfavorable, placement shall not occur and the adoption entity, within 20 days of receiving the written recommendation, may petition the court to determine the suitability of adoption.

To ascertain whether the adoptive home is a suitable home for the minor and whether it is in the best interest of the child, a final home investigation must be conducted before the adoption becomes final. The investigation is conducted in the same manner as the preliminary home study.¹¹ Within 90 days after placement of the child, a written report of the final home investigation must be filed with the court and the petitioner.¹² The report must contain an evaluation of the placement with a recommendation on the granting of the petition for adoption.¹³

The final home investigation must include:¹⁴

- Information from preliminary home study.
- Following the minor's placement, two scheduled visits with the minor and the minor's adoptive parent or parents. One visit must be in the home to determine suitability of the placement.
- Family social and medical history.
- Other information relevant to suitability of placement.
- Information required by rules promulgated by DCF.

Firearms and Ammunition

Current law requires anyone who owns or stores a loaded firearm to keep it safely stored away from any minor who may access it without permission. Specifically, s. 790.174, F.S. states:

“(1) A person who stores or leaves, on a premise under his or her control, a loaded firearm, as defined in s. 790.001, and who knows or reasonably should know that a

⁸ On 11-11-2009, Children's Home Society of Florida, a licensed adoption agency, issued a memo to its staff instructing staff to no longer make nor keep any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms.

⁹ s. 63.092(3), F.S.

¹⁰ Id.

¹¹ s. 63.125(1), F.S.

¹² s. 63.125(2), F.S.

¹³ s.63.125(3), F.S.

¹⁴ s. 63.125(5), F.S.

minor is likely to gain access to the firearm without the lawful permission of the minor's parent or the person having charge of the minor, or without the supervision required by law, shall keep the firearm in a securely locked box or container or in a location which a reasonable person would believe to be secure or shall secure it with a trigger lock, except when the person is carrying the firearm on his or her body or within such close proximity thereto that he or she can retrieve and use it as easily and quickly as if he or she carried it on his or her body.”

Further, a state governmental agency and its agents, both public and private cannot keep a list or record of firearms and/or their owners. Specifically, s. 790.335, F.S. states:

“(2) No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record of registry of the owners of those firearms.”

If one of the entities is in violation by knowingly and willfully keeping or causing to be kept any list, record, or registry, they may be assessed a fine of not more than \$5 million.¹⁵

Additionally, s. 790.33, F.S. states that “Legislature is responsible for the whole field of regulation of firearms and ammunition, including ownership and possession.” Therefore, a state governmental agency and its agents, without proper statutory authority from the Legislature, cannot regulate the storage, use, and possession of firearms and ammunition.

Neither statutory language nor administrative rules exist regarding the ownership of firearms and ammunition and its bearing on adoption. However and in comparison, the DCF promulgated a rule relating to the foster home safety and the location of firearms and ammunition. Rule 65C-13.030(5)(h)(6), Florida Administrative Code states:

“Dangerous weapons shall be secured in a location inaccessible to children. Storage of guns shall comply with the requirements in Section 790.174, F.S. Weapons and ammunition shall be locked and stored separately, and in a place inaccessible to children.”

A December 1, 2009 DCF memorandum acknowledges the lack of statutory authority for their rule requiring separate storage of firearms and ammunition and states it will take action to correct 65C-13.030(5)(h)(6), Florida Administrative Code.¹⁶

Effect of Proposed Changes

This bill creates s. 63.0422, F.S., to prohibit conditions on adoption relating to firearms and ammunition. Specifically, the bill will prohibit an adoption agency or entity, whether public or private, from considering the lawful possession, storage, or use of a firearm or ammunition in determining a person’s suitability to adopt. The policies created by this bill already exist elsewhere in statute; specifically ss. 790.174, 790.335, and 790.33, F.S.

Additionally, the bill will prohibit an adoption agency or entity, whether public or private from requiring an adoptive parent or prospective parent to disclose information relating to a person’s lawful possession, storage, or use of a firearm or ammunition as a condition to adopt. The effect of this change reiterates in the adoption statutes the prohibition against governmental entities and their agents from knowingly and willfully keeping or causing to be kept any list, record, or registry.¹⁷

¹⁵ s. 790.335(4)(c), F.S.

¹⁶ Memorandum from DCF General Counsel and Director of Children’s Legal Services to the Director of the Office of Family Safety (Dec.1, 2009) (on file with FL House of Representatives Health Care Services Policy Committee).

¹⁷ s. 790.335, F.S.

Lastly, the bill will prohibit an adoption agency or entity from restricting the lawful possession, storage, or use of a firearm as a condition for a person to adopt. The effect of this change reiterates in the adoption statutes the prohibition against regulation of firearm possession, storage, or use by anyone other than the Legislature.¹⁸

B. SECTION DIRECTORY:

Section 1. Creates s. 63.0422, relating to adoption.

Section 2. Provides an effective date upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

¹⁸ s. 790.33, F.S.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to adoption; creating s. 63.0422, F.S.;
 3 prohibiting an adoption agency or entity from making
 4 suitability determinations based on, requiring disclosure
 5 relating to, or restricting the lawful possession,
 6 storage, or use of a firearm or ammunition; providing an
 7 effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Section 63.0422, Florida Statutes, is created
 12 to read:

13 63.0422 Prohibited conditions on adoptions; firearms and
 14 ammunition.--An adoption agency or entity, whether public or
 15 private, may not:

16 (1) Consider the lawful possession, storage, or use of a
 17 firearm or ammunition in determining a person's suitability to
 18 adopt.

19 (2) Require an adoptive parent or prospective adoptive
 20 parent to disclose information relating to a person's lawful
 21 possession, storage, or use of a firearm or ammunition as a
 22 condition to adopt.

23 (3) Restrict the lawful possession, storage, or use of a
 24 firearm or ammunition as a condition for a person to adopt.

25 Section 2. This act shall take effect upon becoming a law.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Health Care Services Policy
2 Committee

3 Representative(s) Kreegel offered the following:

4

5 **Amendment**

6 Remove lines 16-18 and insert:

7 (1) Make a determination that a person is unsuitable to
8 adopt based on the lawful possession, storage, or use of a
9 firearm or ammunition by any member of the adoptive home.

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Health Care Services Policy
2 Committee
3 Representative(s) Kreegel; offered the following:

4
5 **Amendment (with title amendment)**

6 Remove line 25 and insert:

7 Section 2. Subsections (5) and (9) of section 409.175,
8 Florida Statutes, are amended to read:

9 (5)(a) The department shall adopt and amend licensing
10 rules for family foster homes, residential child-caring
11 agencies, and child-placing agencies. The department may also
12 adopt rules relating to the screening requirements for summer
13 day camps and summer 24-hour camps. The requirements for
14 licensure and operation of family foster homes, residential
15 child-caring agencies, and child-placing agencies shall include:

16 1. The operation, conduct, and maintenance of these homes
17 and agencies and the responsibility which they assume for
18 children served and the evidence of need for that service.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 315 (2010)

Amendment No. 2

19 2. The provision of food, clothing, educational
20 opportunities, services, equipment, and individual supplies to
21 assure the healthy physical, emotional, and mental development
22 of the children served.

23 3. The appropriateness, safety, cleanliness, and general
24 adequacy of the premises, including fire prevention and health
25 standards, to provide for the physical comfort, care, and well-
26 being of the children served.

27 4. The ratio of staff to children required to provide
28 adequate care and supervision of the children served and, in the
29 case of foster homes, the maximum number of children in the
30 home.

31 5. The good moral character based upon screening,
32 education, training, and experience requirements for personnel.

33 6. The department may grant exemptions from
34 disqualification from working with children or the
35 developmentally disabled as provided in s. 435.07.

36 7. The provision of preservice and inservice training for
37 all foster parents and agency staff.

38 8. Satisfactory evidence of financial ability to provide
39 care for the children in compliance with licensing requirements.

40 9. The maintenance by the agency of records pertaining to
41 admission, progress, health, and discharge of children served,
42 including written case plans and reports to the department.

43 10. The provision for parental involvement to encourage
44 preservation and strengthening of a child's relationship with
45 the family.

46 11. The transportation safety of children served.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 315 (2010)

Amendment No. 2

47 12. The provisions for safeguarding the cultural,
48 religious, and ethnic values of a child.

49 13. Provisions to safeguard the legal rights of children
50 served.

51 (b) The requirements for the licensure and operation of a
52 child placing agency shall also include compliance with the
53 requirements of ss. 63.0422 and 790.335.

54 ~~(b)~~ (c) In promulgating licensing rules pursuant to this
55 section, the department may make distinctions among types of
56 care; numbers of children served; and the physical, mental,
57 emotional, and educational needs of the children to be served by
58 a home or agency.

59 ~~(e)~~ (d) The department shall not adopt rules which
60 interfere with the free exercise of religion or which regulate
61 religious instruction or teachings in any child-caring or child-
62 placing home or agency; however, nothing herein shall be
63 construed to allow religious instruction or teachings that are
64 inconsistent with the health, safety, or well-being of any
65 child; with public morality; or with the religious freedom of
66 children, parents, or legal guardians who place their children
67 in such homes or agencies.

68 (e) The department's rules shall include adoption of a form
69 to be used by child placing agencies during an adoption home
70 study that requires all prospective adoptive applicants to
71 acknowledge in writing the receipt of a document containing
72 solely and exclusively the verbatim language provided for in s.
73 790.174.

Amendment No. 2

74 (9)(a) The department may deny, suspend, or revoke a
75 license.

76 (b) Any of the following actions by a home or agency or
77 its personnel is a ground for denial, suspension, or revocation
78 of a license:

79 1. An intentional or negligent act materially affecting
80 the health or safety of children in the home or agency.

81 2. A violation of the provisions of this section or of
82 licensing rules promulgated pursuant to this section.

83 3. Noncompliance with the requirements for good moral
84 character as specified in paragraph (5)(a).

85 4. Failure to dismiss personnel found in noncompliance
86 with requirements for good moral character.

87 5. Failure to comply with requirements of ss. 63.0422 and
88 790.335.

89
90 Section 3. This act shall take effect upon becoming law.

91
92 -----

93 **T I T L E A M E N D M E N T**

94 Remove lines 6-7 and insert:

95 storage, or use of a firearm or ammunition; amending s.
96 409.175, F.S.; providing additional requirements for
97 child-placing agencies; providing additional rulemaking
98 requirements for the Department of Children and Family
99 Services; creating additional grounds for denial,
100 suspension, or revocation of a license; providing an
101 effective date.

Background Screening: Options for Discussion

This list of options is intended as a starting point for discussions on possible changes to Florida law related to background screening. The following options should be considered as they would apply to children and vulnerable adults served in programs administered by the Department of Children and Families (DCF), Agency for Persons with Disabilities (APD) and the Guardian Ad Litem (GAL) program. This list of options was accumulated from the House joint meeting on background screening, recommendations from state agencies and research by committee staff. Where appropriate, the acronym for the state agency that proposed the option is indicated in parentheses (e.g. DCF).

Hiring Safeguards:

1. Authorize the hiring of an individual to work only after a favorable background screen verification.

Current situation: Individuals may be employed prior to the verification of a favorable background screen.¹ Chapter 435.05, F.S., requires individuals to submit to the employer within 5 working days a complete set of information necessary to conduct the screening. APD allows employees awaiting screening results to work up to 90 days while under constant visual supervision.² DCF and GAL programs do not set a time limit.

If a level 2 screening (state and national) is required it can take from 4 to 6 weeks when submitted as a hard copy and 2 to 3 days when submitted electronically. A level 1 screening (state only) requires approximately 5 days to complete.

The level 1 background screening standards are State of Florida only checks and must include but are not limited to, employment history checks and statewide criminal correspondence checks through Florida Department of Law Enforcement (FDLE) and may include local criminal records checks.³ Level 2 background screening standards include state and national criminal records checks and must include fingerprinting and statewide criminal and juvenile records checks through FDLE and federal records checks through the Federal Bureau of Investigation (FBI). They may also include local criminal records checks.⁴

Individuals working under DCF or APD programs are generally not required to be rescreened unless they have been unemployed for more than 90 days.⁵ However, DCF contract personnel for child welfare services are required to be rescreened no less frequently than once every 5 years.⁶

¹ One exception to this is made for child enrichment service providers who must receive a favorable level 2 background screen before providing services in a child day care facility (s. 402.3054(3), F.S.

² s. 393.0655 (1)(e), F.S.

³ s. 435.03(1), F.S.

⁴ s. 435.04(1), F.S.

⁵ s. 402.3057, F.S., s. 393.0657, F.S., s. 397.451(3)(a), s. 394.4572(3), F.S.

⁶ s. 39.001(2)(b), F.S.

2. Increase background screening for Guardian Ad Litem program volunteers from Level 1 (state only) to Level 2 (state and national) background screening.

Current Situation: A guardian ad litem is appointed by the court to represent a child in a child abuse, abandonment or neglect judicial proceeding.⁷ Florida law requires the volunteers serving as a guardian ad litem to receive a security background investigation⁸ which is equivalent to a level 1 background check. In contrast, individuals working in APD programs serving people with developmental disabilities or DCF programs serving children must receive a level 2 background check. The GAL program is in support of requiring level 2 background screening. However, GAL officials have indicated that additional funding is required to implement this change.

Electronic fingerprinting:

- 3. Require electronic fingerprint sub-mission to decrease processing time.**
- 4. Authorize fingerprint retention by FDLE for state agencies to allow for new arrest notification.)**
- 5. Regulate private entities who electronically submit fingerprints to ensure integrity of information submitted.**

Current Situation: Electronic fingerprinting (also known as live scan) currently comprises 75 percent of the fingerprint submissions to FDLE. Live scan fingerprints can obtain results from the FBI for level 2 background checks in 2 to 3 days versus 4 to 6 weeks for hard copy submissions. The Department of Children and Families and Agency for Persons with Disabilities currently uses the live scan technology for about 50 percent of their background screens⁹. The Guardian Ad Litem program does not use the live scan devices. Live scan devices are located throughout the state. However, it is anticipated that the live scan infrastructure would need to be increased if electronic fingerprint submission is mandated. FDLE recommends that regulation (licensure or certification) of live scan operations would be needed to ensure the integrity of the process if electronic fingerprint submission becomes mandatory. More discussion is needed to determine if regulation should be handled through contract oversight of screening entities or through an established regulatory authority.

Electronic fingerprinting allows for the retention of prints which can be used to screen for incoming arrests and to identify people who may have a recent disqualifying offense. FDLE retains fingerprints which are authorized by law for some state agencies and other entities. DCF, APD and the GAL program do not have statutory authority to retain electronic fingerprints.

⁷ s. 39.822(1)

⁸ s. 39.821, F.S.

⁹ Per phone conversations with Mary Ann Stiles, DCF and Wes Underwood, APD.

Disqualifying Offenses:

6. Expand list of disqualifying offenses from those listed in ss. 435.03 and 435.04, F.S.

Current Situation: The level 1 and level 2 screening standards in ss. 435.03 and 435.04, F.S. contain lists of disqualifying offenses which prohibit individuals from being employed unless they are granted an exemption as specified in s. 435.07, F.S. (see attached statute)

APD recommends the following additional crimes be added to the list of disqualifying offences for level 2 screening for employees or employers of residential facilities licensed under chapter 393, F.S., or developmental disabilities centers:

- Sections 409.920 and 409.9201, relating to Medicaid fraud.
- Chapter 784, relating to assault, battery, and culpable negligence, if the offense is a felony.
- Section 810.02, relating to burglary, if the offense is a felony.
- Section 817.034, relating to communications fraud.
- Section 817.234, relating to fraudulent insurance claims.
- Section 817.505, relating to patient brokering.
- Section 817.568, relating to identification theft.
- Sections 817.60 and 817.61, relating to credit cards, if the offense is a felony.
- Sections 831.01, 831.02, 831.07, 831.09, 831.30, and relating to forgery, uttering, and counterfeiting.

Exemptions to Disqualifying Offenses:

- 7. Repeal all exemptions to disqualifying offenses for certain populations (e.g. children, persons with developmental disabilities.)**
- 8. Provide that exemptions cannot be granted for persons convicted of certain offenses. (e.g. violent or sexual crimes) toward children or vulnerable adults.**
- 9. Allow state agencies the discretion to deny requests for employment exemptions in s. 435.07, F.S., which involve crimes identified by the agency which (based on agency standards) are reasonable and necessary to protect public safety, health and welfare.**
- 10. Allow state agencies to revoke exemptions upon receipt of new information about individuals (e.g. violation of standards needed to protect public, new arrest for new offense, etc.)**
- 11. Increase time before exemption can be granted from current 3 years to 5 years.**
- 12. Clarify that exemption eligibility begins after sentence is completed, including probation.**
- 13. Provide state agencies the authority to place conditions on the types of exemptions granted.—(e.g. agencies could place specific conditions on an exemption which must be met for the exemption to remain in effect)**

Current Situation: Licensing agencies may grant exemptions from employment disqualification (unless otherwise provided in law) for:

- Felonies committed more than 3 years prior to date of disqualification;
- Misdemeanors cited in chapter 435, F.S., or similar statutes of other jurisdictions;
- Felonies which are now misdemeanors;
- Findings of delinquency; or
- Commission of acts of domestic violence

Under current law, a person can become eligible to apply for an exemption, three years after the date of a previously committed felony. This means that a person could still be serving a sentence or be on probation/parole when they become eligible to apply for an exemption. The process for reviewing the requests for exemption by licensing agencies is not standardized. The person requesting the exemption must provide clear and convincing evidence of rehabilitation to the licensing agency.

Note: Text in yellow highlight indicates a recent update to this document

BACKGROUND SCREENING: AGENCY POSITIONS (Rev. 1/11)

Issue	AHCA	APD	DCF	DOEA	FDLE
Electronic fingerprinting: <ul style="list-style-type: none"> Require electronic fingerprint submission to decrease processing time. Authorize fingerprint retention to allow for arrest notification. 	Support	Support	Support	Support	Support
Industry Regulation: <ul style="list-style-type: none"> Regulate private entities who electronically submit fingerprints to ensure integrity of information submitted. 	Support minimum standards.	Support	Support	Support	Support
Hiring Safeguard(s): <ul style="list-style-type: none"> Authorize hiring only after favorable screening verification to increase patient protection. 	Support, however, need to be sensitive to provider response.	Support	Support	Support	Support
Offenses: <ul style="list-style-type: none"> Expand list of disqualifying offenses 	AHCA offenses were expanded in 2009 in 408.809.	Support	No Objection	No Objection	No Objection
Exemptions: <ul style="list-style-type: none"> Repeal all exemptions, or repeal exemptions for certain populations, e.g. children, vulnerable adults. Provide that exemption cannot be granted for person convicted of certain offenses. Allow for exemption revocation upon arrest for new offense. Increase time before exemption can be granted from current 3 years to 5 years. Clarify that time for exemption eligibility begins after sentence is completed, including probation. 	Support - Prefer to keep some type of exemption process. Support concept – crimes should be carefully considered. Support Support Support	Support - Same as AHCA Support – Same as AHCA Support Support Support	Support	Support	Neutral
Centralized Screening and Adjudication: <ul style="list-style-type: none"> Authorize one agency or department with the responsibility to adjudicate employment based on established screening criteria. 	Support elimination of duplicate processes and screening among agencies. Concept should be carefully considered.	Same as AHCA. Uncertain if centralized screening is solution, but support elimination of duplication among agencies and duplicate screening.	Neutral	Support standardizing the efforts of multiple agencies, but do not support authorizing a single agency to govern this activity.	No Objection

BACKGROUND SCREENING OF SELECT AGENCIES

The following is a current list of screenings as required by Florida Statute for employees of licensed facilities as well as staff of agencies and direct service workers.

Facility/Service/Employee Type	Owner / Administrator	Financial Officer	Direct Care Staff	Controlling Interests	Other Staff	Authorizing Statute for Staff
Agency for Health Care Administration						
Abortion Clinics	Level 2	Level 2	--	Level 2	---	408.809
Adult Day Care Centers	Level 2	Level 2	Level 1	Level 2	---	429.919
Adult Family Care Homes	Level 2	--	Level 1	Level 2	---	429.67
Ambulatory Surgery Centers	Level 2	Level 2	--	Level 2	---	408.809
Assisted Living Facilities	Level 2	Level 2	Level 1	Level 2	---	429.174
Birth Centers	Level 2	Level 2	--	Level 2	---	408.809
Clinical Laboratories:					---	408.809
Certificate of Exemption (Waived Testing Only)	--	--	--			
Clinical Laboratories Performing Non-waived Testing (including physician performed microscopic tests)	Level 2	Level 2	--	Level 2		
Drug Free Workplace	Level 2	Level 2	--	Level 2	---	408.809
Health Care Service Pools	Level 2	Level 2	Level 1 and Level 2	Level 2	---	400.980(6)
Health Care Clinics	Level 2 (includes owners with 10% or more interest in clinic)	Level 2	Level 2 (includes Medical Director, Clinical Director and all licensed health care providers)	Level 2	---	400.991
Home Health Agencies	Level 2	Level 2	Level 1 and Level 2	Level 2	---	400.512
Homemaker, Sitter, Companion Agencies	Level 2	Level 2	Level 1	Level 2	---	400.512
Home Medical Equipment Providers	Level 2	Level 2	Level 1	Level 2	---	400.953 and 400.955

Facility/Service/Employee Type	Owner / Administrator	Financial Officer	Direct Care Staff	Controlling Interests	Other Staff	Authorizing Statute for Staff
Homes for Special Services	Level 2	Level 2	--	Level 2	---	408.809
Hospice	Level 2	Level 2	Level 1	Level 2	---	400.6065
Hospitals	Level 2	Level 2	--	Level 2	---	408.809
ICF/DDs	Level 2	Level 2	Level 2	Level 2	---	400.964
Medicaid Contracted Facilities	Level 2	Level 2	Level 2	--	---	408.809
Multiphasic Health Testing Centers	Level 2	Level 2	--	Level 2	---	408.809
Nurse Registries	Level 2	Level 2	Level 1 and Level 2	--	---	400.512
Nursing Homes	Level 2	Level 2	Level 1 and Level 2	Level 2	Level 1 and Level 2	400.215
Organ Procurement Organizations, Tissue Banks, Eye Banks	Level 2	Level 2	--	Level 2	---	408.809
Prescribed Pediatric Extended Care Centers	Level 2	Level 2	--	Level 2	---	408.809
Risk Managers <i>(Risk Managers are licensed individuals)</i>	Level 2	**	**	**	---	408.809
Residential Treatment Centers	Level 2	Level 2	Level 2	Level 2	---	394.4572
Residential Treatment Facilities	Level 2	Level 2	Level 2	Level 2	---	394.4572
Transitional Living Facilities	Level 2	Level 2	--	Level 2	---	408.809
Agency for Persons with Disabilities						
Group Homes	Level 2	Level 2	Level 2	Level 2	Level 2 (e.g. volunteers > 40 hrs.)	393.0655
Foster Homes	Level 2	Level 2	Level 2	Level 2	Level 2 (e.g. volunteers > 40 hrs.)	393.0655
Residential Habilitation Centers	Level 2	Level 2	Level 2	Level 2	Level 2 (e.g. volunteers > 40 hrs.)	393.0655

Facility/Service/Employee Type	Owner / Administrator	Financial Officer	Direct Care Staff	Controlling Interests	Other Staff	Authorizing Statute for Staff
Developmental Disability Centers	Level 2	Level 2	Level 2	Level 2	Level 2 (e.g. volunteers > 40 hrs.)	393.0655
Adult Day Training Programs	Level 2	Level 2	Level 2	Level 2	Level 2 (e.g. volunteers > 40 hrs.)	393.0655
Comprehensive Transitional Education Programs	Level 2	Level 2	Level 2	Level 2	Level 2 (e.g. volunteers > 40 hrs.)	393.0655
Direct Service Workers (e.g. support coordinator, supported living coach, supported employment coach)	Level 2	Level 2	Level 2	Level 2	Level 2 (e.g. volunteers > 40 hrs.)	393.0655
APD Employees	NA	NA	Level 2	NA	Level 2 (e.g. volunteers > 40 hrs.)	110.1127, 393.0655
Department of Children and Families						
Child Care Facilities (includes Family Day Care Homes, Large Family Child Care Homes, Registered Family Day Care Homes, and Religious Exempt Child Care Facilities)	Level 2	Level 2	Level 2	Level 2	Level 2 (e.g. All house hold members, volunteers >40 hrs)	402.305
Community Based Care Lead Agencies	Level 2	Level 2	Level 2	Level 2	Level 2	409.175
Foster homes	Level 2	Level 2	Level 2	Level 2	Level 2	409.175
Child placing agencies	Level 2	Level 2	Level 2	Level 2	Level 2	409.175
Residential Child Caring Agencies	Level 2	Level 2	Level 2	Level 2	Level 2	409.175
Addiction Receiving Facilities	Level 2	Level 2	Level 2 (in contact with patients under age 18 or adults with dev. disability)	Level 2	Level 2	397.451

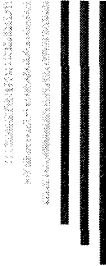
Facility/Service/Employee Type	Owner / Administrator	Financial Officer	Direct Care Staff	Controlling Interests	Other Staff	Authorizing Statute for Staff
Detox Facility	Level 2	Level 2	Level 2 (in contact with patients under age 18 or adults with dev. disability)	Level 2	Level 2	397.451
Inpatient Treatment Facility	Level 2	Level 2	Level 2 (in contact with patients under age 18 or adults with dev. disability)	Level 2	Level 2	397.451
Residential Facility	Level 2	Level 2	Level 2 (in contact with patients under age 18 or adults with dev. disability)	Level 2	Level 2	397.451
Day or Night Treatment Facility	Level 2	Level 2	Level 2 (in contact with patients under age 18 or adults with dev. disability)	Level 2	Level 2	397.451
Outpatient Treatment Facility	Level 2	Level 2	Level 2 (in contact with patients under age 18 or adults with dev. disability)	Level 2	Level 2	397.451
Medication and Methadone Treatment Facility	Level 2	Level 2	Level 2 (in contact with patients under age 1 or adults with dev. disability)	Level 2	Level 2	397.451
Florida Civil Commitment Center (serves sexually violent predators)	Level 2	Level 2	Level 2	--	Level 2	Contractual requirement.
Treasure Coast Forensic Treatment Center (private forensic mental health treatment facility)	Level 2	Level 2	Level 2	--	Level 2	Contractual requirement.
North Florida Evaluation and Treatment Center (public forensic mental health treatment facility)	Level 2	Level 2	Level 2	--	Level 2	435.04, 110.1127
DCF employees	--	--	Level 2	--	Level 2	110.1127
Department of Health						

Facility/Service/Employee Type	Owner / Administrator	Financial Officer	Direct Care Staff	Controlling Interests	Other Staff	Authorizing Statute for Staff
Adv. Reg. Nurse Practitioner by Endorsement	---	---	Level 2	---	---	464.009(4), 456.0391(4)(a)
Certified Nursing Asst. by Examination in FL > 5 years	---	---	Level 1	---	---	400.215
Certified Nursing Asst. by Examination in FL < 5 years	---	---	Level 2	---	---	400.215
Certified Nursing Asst. by Reciprocity	---	---	Level 2	---	---	400.215
Licensed. Practical Nurse by Examination	---	---	Level 1	---	---	464.008(1)(b)
Licensed Practical Nurse by "Endorsement	---	---	Level 2	---	---	464.009(4)
Registered Nurse by Examination	---	---	Level 1	---	---	464.008(1)(b)
Registered Nurse by Endorsement	---	---	Level 2	---	---	464.009(4)
Chiropractic Physicians	---	---	Level 2	---	---	460.406(1)(f) & 456.039(4)(a)
Medical Practice (MD) Physician	---	---	Level 2	---	---	458.311(2)(g) & 456.039(4)(a)
Osteopathic Physicians	---	---	Level 2	---	---	459.0055(1)(j) & 456.039(4)(a)
Orthotists, Prosthetists, Pedorthists, Orthotic Filters, Orthotic Filter Assistants, O & P Residents	---	---	Level 2	---	---	468.803(2)(a)
Drug Wholesales/Certif. Designated Representative	---	---	---	---	Level 2	499.012
Pharmacy Owners	Level 2	---	---	---	---	465.022

Facility/Service/Employee Type	Owner / Administrator	Financial Officer	Direct Care Staff	Controlling Interests	Other Staff	Authorizing Statute for Staff
Prescription Department Manager	Level 2	---	---	---	---	465.022
Podiatric Physicians	---	---	Level 2	---	---	461.006(1)(3) & 456.039(4)(a)
All non-physician Health Care Providers	Level 2	---	Level 2	---	---	391.026(10)
Department of Elder Affairs						
DOEA employees, professional guardians and volunteers	---	---	Level 2	---	Level 2	435.04, 943.0542
In Home Respite Care	---	---	Level 1 (If provided through Senior Companion Program) Level 2 (If provided through RELIEF Program)	---	---	--
Facility Based Respite Care	---	---	Level standards applicable to the facility type	---	---	--
Facility or In Home Personal Care	---	---	Level 1	---	---	400.512
Department of Education						
Public School/ District <ul style="list-style-type: none"> • Instructional personnel • Non- instructional personnel • Contractors/vendors 	---	---	---	---	Level 2	1012.165, 1012.32
Voluntary Prekindergarten (VPK) –Public School <ul style="list-style-type: none"> • Instructional personnel • Non- instructional personnel • Contractors/vendors 	---	---	---	---	Level 2	1002.63, 1002.61 (VPK), 1012.465, 1012.32


Facility/Service/Employee Type	Owner / Administrator	Financial Officer	Direct Care Staff	Controlling Interests	Other Staff	Authorizing Statute for Staff
Voluntary Prekindergarten (VPK) – Private School	Level 2	---	---	---	Level 2 (Director, Instructor and Assistant)	1002.63 1002.61 1012.465 1012.32
McKay and Florida Tax Credit Scholarship Programs <ul style="list-style-type: none"> • Instructional personnel and administrators • Non- instructional personnel with direct child contact 	---	---	---	---	Level 2	1002.421 1012.315 435.04
McKay Scholarship Program Contractors/Vendors	---	---	---	---	---	---
All DOE employees	---	---	---	---	Level 2	110.1127 435.04 435.06 413.011(7)
Guardian Ad Litem						
Paid staff and certified volunteers	---	---	Level 1	---	---	39.821
Department of Juvenile Justice						
All DJJ Employees, volunteers, mentors, interns	Level 2	---	Level 2	Level 2	---	985.644
All Contract Provider employees, volunteers, mentors, interns, owners and operators	Level 2	---	Level 2	Level 2	---	985.644
Detention Centers	Level 2	---	Level 2	Level 2	---	985.644
Probation Offices	Level 2	---	Level 2	Level 2	---	985.644

Facility/Service/Employee Type	Owner / Administrator	Financial Officer	Direct Care Staff	Controlling Interests	Other Staff	Authorizing Statute for Staff
Residential Treatment Centers	Level 2	---	Level 2	Level 2	---	985.644
Prevention Service Providers/Programs	Level 2	---	Level 2	Level 2	---	985.644
Department of Veterans' Affairs						
Nursing and domiciliary homes	---	---	Level 1 and Level 2	---	---	400.215, 429.174



Criminal History Record Check Processes

January 12, 2010
Florida Department of Law Enforcement



State and National Criminal History Record Checks

- FDLE provides criminal history check processing as required by statute
- Provisions in state law are approved by the FBI under federal law (US PL92-544)
- Requires a fingerprint submission
- Fee based
 - State fee set by law at \$24.00
 - FBI fee
 - \$19.25 if electronically submitted
 - \$30.25 if paper card



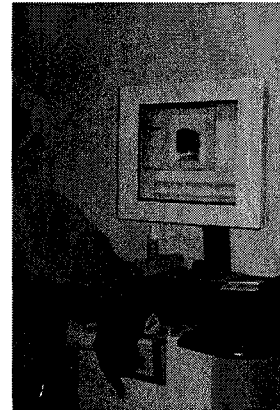
Fingerprint Submission

- 25% of applicant fingerprints submitted by hard card
- 75% captured using submitted electronically
- Examples of Electronic Customers
 - Agency for Health Care Administration
 - Dept. of Agriculture
 - Dept. of Children and Families
 - Dept. of Juvenile Justice
 - Dept. of Business and Professional Regulation
 - Public and Private Schools
- An agency can purchase a livescan device, utilize a vendor as a service provider or scan inked cards



Live Scan Devices

- Located in every school district
- DCF contracted providers
- 197 in law enforcement agencies, university and school police
 - In jails these are in secure areas and have a different workflow
- 7 FDLE offices
- DHSMV
- 21 Service Providers as noted on FDLE Website





Benefits of Electronic Submission



- Reduced processing time
- Improved quality of prints for searching
- Reduction in potential missed identifications
- "One stop shopping": state and national results are bundled together
- Enables retention of prints if authorized



Legislative Recommendation

- Require agencies to submit electronically
 - Agencies could work together to develop a contract with a vendor at no additional cost to agency and with limited impact to customer
 - Reduced turnaround time allows legislature to revisit the policy of allowing persons to begin work prior to screening.




Oversight of Service Providers for Fingerprint Submissions

- Issue: Ensuring integrity of the process
 - security of the information obtained
 - proper identification of persons whose prints are being submitted
- Recommendation: Authorize state and national background checks for vendors and their employees and provide a method for oversight and accountability.



Identified Concern

- 
- Fingerprints not always submitted (many conduct state only name checks)
 - **Interstate Identification Index Name Check Efficacy: Report of the National Task Force to the US Attorney General July 1999**
 - 11.7% of applicants with criminal history would not have been detected without fingerprint based search.
 - reliance on name checks alone can mean large numbers of persons employed or volunteering in positions for which they are unfit and pose societal risks
 - Florida is a transient state



Legislative Recommendation

- Consider requiring all checks to be state and national fingerprint based checks
- Remove references to Level I and Level II screening in chapter 438 and replace with "State Only" or "State and National Check" respectively
 - Note: if first recommendation is accepted there is no need for "State Only"



Retained Prints and Arrest Notification

- FDLE retains fingerprints where authorized by law
- Incoming Florida arrests run against retained prints
- FDLE notifies employing or licensing agency of arrests
- Retained Print Customers
 - Public and private schools
 - Seaports
 - Dept. Juvenile Justice
 - Professional guardians
 - Criminal justice agencies
 - Racinos
 - Beginning Oct. 2010, Mortgage brokers and Loan Originators



Benefits of Retained Prints

- Agencies receive immediate notification when arrest occurs
- Agencies no longer have to conduct rechecks for employees
 - Only notified when an arrest occurs based on a biometric
 - Not having to rescreen rap sheets for all employees



Legislative Recommendation

- Authorize Agencies to retain fingerprints
- Authorize rescreen with FBI in min. 5 yrs
- Allow agencies to have a designated length of time to resubmit fingerprints for those employees not currently retained (recommend somewhere between 2 to 5 years)

Retained Prints Issues To Be Addressed

- **Fees:**
 - \$6 per print retained annually after first year
 - Who will pay the fee and how will it be collected?
- **Management of prints:**
 - Agencies manage retained print file and request deletion for persons no longer of interest
 - What will be the workload impact for agencies retaining prints?
 - Charged annually for only those prints actually retained
- **Management of Hit Notifications:**
 - Agencies must maintain tracking system
 - Agencies must develop a tracking mechanism prior to retention and notification
 - Take appropriate action upon arrest notification and subsequent judicial action
 - May need legislation to allow them to take action on arrest

Retained Prints



- FBI plans to have retained print capability and arrest notification within its Next Generation Identification (NGI). This capability is planned for 2013.
- Retaining prints now will put agencies in position to take advantage of national rap back program
- Until then, agencies can resubmit to FBI without having to recollect fingerprints and cost is only that of FBI check



Legislative Recommendation

- Designate an interim committee to identify issues
 - Are there duplicate checks
 - Can information be shared between agencies
 - Should agencies rely on previous checks
- Committee to workshop issues and provide recommendations



Sample Policy Issues and Concerns

- How long would the state allow a person to be unaffiliated with an agency and not have to undergo a background check?
- If a person is in a state database, without the resubmission of prints, how do you know that you are checking the right person?
- If there is centralized screening what agency would do the screening and would the same criteria be used for each entity?
- What statutes and policy issues would need to be addressed at the FBI to authorize such centralized screening?



Summary of Recommended Actions

- Require electronic submission of fingerprints
 - Authorize retention upon request of agency, or as mandated by legislature, with privacy notice to the applicant (notice required by FBI)
 - Authorize retention at FBI pending capability
 - Provide oversight on service providers
 - **Licensing, certification or through contract**
 - **Criminal history check on employees to alleviate potential fraud and ensure integrity of systems**
 - Create interim committee to study issues and any unintended consequences provide report
-